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UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS
FILED
IN CLERKS OFFICE
2004 OCT 22 P 1:07

DONALD BACHAND,
Plaintiff

V.

SAM & BEN FISHERIES, INC.,
Defendant

Civil Action

No. _____

U.S. DISTRICT COURT
DISTRICT OF MASS.

04 - 12221 PBS

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL MAGISTRATE JUDGE W. J. Murphy

Now comes the Plaintiff in the above-entitled matter and for his complaint states:

General Factual Allegations

1. The Plaintiff, Donald Bachand, is a resident of Mattapoisett, County of Plymouth, Commonwealth of Massachusetts.
2. The Defendant, Sam & Ben Fisheries, Inc., is a corporation, duly organized and existing under the laws of the Commonwealth of Massachusetts.
3. On or about May 28, 2004, the Defendant, Sam & Ben Fisheries, Inc., was doing business within the Commonwealth of Massachusetts.
4. On or about May 28, 2004, the Plaintiff, Donald Bachand, was employed by the Defendant, Sam & Ben Fisheries, Inc.
5. On or about May 28, 2004, the Plaintiff, Donald Bachand, was employed by the Defendant, Sam & Ben Fisheries, Inc., as a seaman, and a member of the crew of the F/V SALLY & KATHERINE.

6. On or about May 28, 2004, the Defendant, Sam & Ben Fisheries, Inc., owned the F/V SALLY & KATHERINE.

7. The Defendant, Sam & Ben Fisheries, Inc., chartered the F/V SALLY & KATHERINE from some other person or entity such that on or about May 28, 2004 the Defendant, Sam & Ben Fisheries, Inc. was the owner pro hac vice of the F/V SALLY & KATHERINE.

8. On or about May 28, 2004, the Defendant, Sam & Ben Fisheries, Inc., operated the F/V SALLY & KATHERINE.

9. On or about May 28, 2004, the Defendant, Sam & Ben Fisheries, Inc., or the Defendant's agents, servants, and/or employees, controlled the F/V SALLY & KATHERINE.

10. On or about May 28, 2004, the F/V SALLY & KATHERINE was in navigable waters.

11. On or about May 28, 2004, while in the in the performance of his duties in the service of the F/V SALLY & KATHERINE , the Plaintiff, Donald Bachand, sustained personal injuries.

12. Prior to and at the time he sustained the above-mentioned personal injuries, the Plaintiff, Donald Bachand, was exercising due care.

Jurisdiction

13. This Court has subject matter jurisdiction over this matter pursuant to The Merchant Marine Act of 1920, commonly called the Jones Act, 46 U.S.C., §688 et. seq.

14. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1333.

COUNT I

Donald Bachand v. Sam & Ben Fisheries, Inc.

(JONES ACT NEGLIGENCE)

15. The Plaintiff, Donald Bachand, reiterates the allegations set forth in paragraphs 1 through 14 above.

16. The personal injuries sustained by the Plaintiff, Donald Bachand, were not caused by any fault on his part but were caused by the negligence of the Defendant, its agents, servants and/or employees.

17. As a result of said injuries, the Plaintiff, Donald Bachand, has suffered pain of body and anguish of mind, lost time from his usual work and pursuits, incurred medical expenses, and has sustained and will sustain other damages as will be shown at trial.

18. This cause of action is brought under the Merchant Marine Act of 1920, commonly called the Jones Act.

WHEREFORE, the Plaintiff, Donald Bachand, demands judgment against the Defendant, Sam & Ben Fisheries, Inc., in the amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), together with interest and costs.

COUNT II

Donald Bachand v. Sam & Ben Fisheries, Inc.

(GENERAL MARITIME LAW - UNSEAWORTHINESS)

19. The Plaintiff, Donald Bachand, reiterates the allegations set forth in paragraphs 1 through 14 above.

20. The personal injuries sustained by the Plaintiff, Donald Bachand, were due to no

fault of his, but were caused by the Unseaworthiness of the F/V SALLY & KATHERINE .

21. As a result of said injuries, the Plaintiff, Donald Bachand has, suffered pain of body and anguish of mind, lost time from his usual work and pursuits, incurred medical expenses, and has sustained and will sustain other damages as will be shown at trial.

22. This cause of action is brought under the General Maritime Law for Unseaworthiness and is for the same cause of action as Count I.

WHEREFORE, the Plaintiff, Donald Bachand, demands judgment against the Defendant, Sam & Ben Fisheries, Inc., in the amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), together with interest and costs.

COUNT III

Donald Bachand v. Sam & Ben Fisheries, Inc.

(GENERAL MARITIME LAW - MAINTENANCE and CURE)

23. The Plaintiff, Donald Bachand, reiterates all of the allegations set forth in Paragraphs 1 through 14 above.

24. As a result of the personal injuries described in paragraph 11 above, the Plaintiff, Donald Bachand, has incurred and will continue to incur expenses for his maintenance and cure.

WHEREFORE, the Plaintiff, Donald Bachand, demands judgment against the Defendant, Sam & Ben Fisheries, Inc., in the amount of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) for maintenance and cure, together with costs and interest.

COUNT IV

Donald Bachand vs. Sam & Ben Fisheries, Inc.

(GENERAL MARITIME LAW/JONES ACT - INTENTIONAL/NEGLIGENT
FAILURE TO PROVIDE MAINTENANCE and CURE)

25. The Plaintiff, Donald Bachand, reiterates the allegations set forth in paragraphs 1 through 14 above.

26. As a result of the personal injuries described in paragraph 11 above, the Plaintiff, Donald Bachand, has incurred and will continue to incur expenses for his maintenance and cure.

27. The Plaintiff, Donald Bachand, has made demand upon the Defendant, Sam & Ben Fisheries, Inc., for the provision of maintenance and cure.

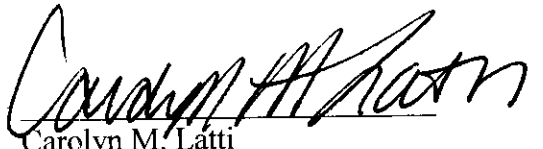
28. The Defendant, Sam & Ben Fisheries, Inc., has negligently, willfully, arbitrarily, and/or unreasonably failed to provide the Plaintiff with maintenance and cure in a timely and adequate manner.

29. As a result of the Defendant's failure to provide the Plaintiff maintenance and cure, the Plaintiff has sustained and will continue to sustain damages, including without limitation, pain of body and anguish of mind, lost time from his usual work and pursuits, medical and hospital expenses, attorneys fees, and has sustained and will sustain other damages as will be shown at trial.

WHEREFORE, the Plaintiff, Donald Bachand, demands judgment against the Defendant, Sam & Ben Fisheries, Inc., in the amount of FIFTY THOUSAND DOLLARS (\$50,000.00), as compensatory damages for failure to pay maintenance and cure, together with costs, interest, and reasonable attorneys fees.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES
RAISED IN COUNTS, I, II, III AND IV.

Respectfully submitted for the
the Plaintiff, Donald Bachand,
by his attorney,

A handwritten signature in black ink, appearing to read "Carolyn M. Latti".

Carolyn M. Latti
LATTI & ANDERSON LLP
30-31 Union Wharf
Boston, MA 02109
(617) 523-1000

Dated:

10-21-04